

104TH CONGRESS  
2D SESSION

# S. 2039

To authorize the construction of the Perkins County Rural Water System and authorize the appropriation of Federal dollars to assist the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 2, 1996

Mr. DASCHLE (for himself and Mr. PRESSLER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To authorize the construction of the Perkins County Rural Water System and authorize the appropriation of Federal dollars to assist the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Perkins County Rural  
5       Water System Act of 1996”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) there are insufficient water supplies of rea-  
4 sonable quality available to the members of the Per-  
5 kins County Rural Water System located in Perkins  
6 County, South Dakota, and the water supplies that  
7 are available do not meet the minimum health and  
8 safety standards, thereby posing a threat to public  
9 health and safety;

10 (2) in 1977 the North Dakota State Legislature  
11 authorized and directed the State Water Commission  
12 to conduct the Southwest Area Water Supply Study,  
13 which included water service to a portion of Perkins  
14 County, South Dakota;

15 (3) the Garrison Diversion Unit Reformulation  
16 Act of 1986 authorized the Southwest Pipeline  
17 project as an eligible project for Federal cost share  
18 participation;

19 (4) the Perkins County Rural Water System  
20 has continued to be recognized by the State of North  
21 Dakota, the Southwest Water Authority, the North  
22 Dakota Water Commission, the Department of the  
23 Interior, and the Congress of the United States as  
24 a component of the Southwest Pipeline Project; and

25 (5) the best available, reliable, and safe rural  
26 and municipal water supply to serve the needs of the

1 Perkins County Rural Water System, Inc., members  
2 is the Missouri River as delivered by the Southwest  
3 Pipeline Project in North Dakota.

4 (b) PURPOSES.—The Congress declares that the pur-  
5 poses of sections 1 through 13 are to—

6 (1) ensure a safe and adequate municipal,  
7 rural, and industrial water supply for the members  
8 of the Perkins County Rural Water Supply System,  
9 Inc., in Perkins County, South Dakota;

10 (2) assist the citizens of the Perkins County  
11 Rural Water Supply System, Inc., to develop safe  
12 and adequate municipal, rural, and industrial water  
13 supplies; and

14 (3) promote the implementation of water con-  
15 servation programs by the Perkins County Rural  
16 Water System, Inc.

17 **SEC. 3. DEFINITIONS.**

18 As used in this Act (unless the context clearly re-  
19 quires otherwise):

20 (1) FEASIBILITY STUDY.—The term “feasibility  
21 study” means the study entitled “Feasibility Study  
22 for Rural Water System for Perkins County Rural  
23 Water System, Inc.”, as amended in March 1995.

24 (2) PROJECT CONSTRUCTION BUDGET.—The  
25 term “project construction budget” means the de-

1       scription of the total amount of funds that are need-  
 2       ed for the construction of the water supply system,  
 3       as contained in the feasibility study.

4           (3) PUMPING AND INCIDENTAL OPERATIONAL  
 5       REQUIREMENTS.—The term “pumping and inciden-  
 6       tal operational requirements” means all power re-  
 7       quirements that are incidental to the operation of in-  
 8       take facilities, pumping stations, water treatment fa-  
 9       cilities, reservoirs, and pipelines up to the point of  
 10      delivery of water by the Perkins County Rural  
 11      Water System to each entity that distributes water  
 12      at retail to individual users.

13          (4) SECRETARY.—The term “Secretary” means  
 14      the Secretary of the Interior.

15          (5) WATER SUPPLY SYSTEM.—The term “water  
 16      supply system” means the Perkins County Rural  
 17      Water System, Inc., that is established and operated  
 18      substantially in accordance with the feasibility study.

19   **SEC. 4. FEDERAL ASSISTANCE FOR THE WATER SUPPLY**  
 20           **SYSTEM.**

21          (a) IN GENERAL.—The Secretary is authorized to  
 22      make grants to the Perkins County Rural Water System,  
 23      Inc., a nonprofit corporation, for the planning and con-  
 24      struction of the water supply system.

1 (b) SERVICE AREA.—The water supply system shall  
2 provide for safe and adequate municipal, rural, and indus-  
3 trial water supplies, mitigation of wetlands areas, and  
4 water conservation in Perkins County, South Dakota.

5 (c) AMOUNT OF GRANTS.—Grants made available  
6 under subsection (a) to the Perkins County Water System,  
7 Inc., shall not exceed the amount authorized under section  
8 10.

9 (d) LIMITATION ON AVAILABILITY OF CONSTRU-  
10 CTION FUNDS.—The Secretary shall not obligate funds for  
11 the construction of the water supply system until—

12 (1) the requirements of the National Environ-  
13 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
14 have been met;

15 (2) a final engineering report has been prepared  
16 and submitted to the Congress for a period of not  
17 less than 90 days before the commencement of con-  
18 struction of the system; and

19 (3) a water conservation program has been de-  
20 veloped and implemented.

21 **SEC. 5. WATER CONSERVATION.**

22 (a) PURPOSE.—The water conservation program re-  
23 quired under this section shall be designed to ensure that  
24 users of water from the water supply system will use the

1 best practicable technology and management techniques to  
 2 conserve water use.

3 (b) DESCRIPTION.—The water conservation pro-  
 4 grams shall include—

5 (1) low consumption performance standards for  
 6 all newly installed plumbing fixtures;

7 (2) leak detection and repair programs;

8 (3) rate structures that do not include declining  
 9 block rate schedules for municipal households and  
 10 special water users (as defined in the feasibility  
 11 study);

12 (4) public education programs;

13 (5) coordinated operation between the Perkins  
 14 County Rural Water System and any preexisting  
 15 water supply facilities within its service area; and

16 (6) coordinated operation between the South-  
 17 west Pipeline Project of North Dakota and the Per-  
 18 kins County Rural Water System, Inc., of South Da-  
 19 kota.

20 (c) REVIEW AND REVISION.—The programs de-  
 21 scribed in subsection (b) shall contain provisions for peri-  
 22 odic review and revision, in cooperation with the Secretary.

23 **SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.**

24 Mitigation of fish and wildlife losses incurred as a  
 25 result of the construction and operation of the Perkins

1 County Rural Water Supply System shall be on an acre-  
2 for-acre basis, based on ecological equivalency, concurrent  
3 with project construction, as provided in the feasibility  
4 study.

5 **SEC. 7. USE OF PICK-SLOAN POWER.**

6 (a) IN GENERAL.—From power designated for future  
7 irrigation and drainage pumping for the Pick-Sloan Mis-  
8 souri River Basin Program, the Western Area Power Ad-  
9 ministration shall make available the capacity and energy  
10 required to meet the pumping and incidental operational  
11 requirements of the water supply system during the period  
12 beginning May 1, and ending October 31, of each year.

13 (b) CONDITIONS.—The capacity and energy described  
14 in subsection (a) shall be made available on the following  
15 conditions:

16 (1) The water supply system shall be operated  
17 on a not-for-profit basis.

18 (2) The water supply system shall contract to  
19 purchase its entire electric service requirements, in-  
20 cluding the capacity and energy made available  
21 under subsection (a), from a qualified preference  
22 power supplier that itself purchases power from the  
23 Western Area Power Administration.

24 (3) The rate schedule applicable to the capacity  
25 and energy made available under subsection (a) shall

1 be the firm power rate schedule of the Pick-Sloan  
2 Eastern Division of the Western Area Power Admin-  
3 istration in effect when the power is delivered by the  
4 Administration.

5 (4) It shall be agreed by contract among—

6 (A) the Western Area Power Administra-  
7 tion;

8 (B) the power supplier with which the  
9 water supply system contracts under paragraph  
10 (2);

11 (C) the power supplier of the entity de-  
12 scribed in subparagraph (B); and

13 (D) the Perkins County Rural Water Sys-  
14 tem, Inc.,

15 that in the case of the capacity and energy made  
16 available under subsection (a), the benefit of the  
17 rate schedule described in paragraph (3) shall be  
18 passed through to the water supply system, except  
19 that the power supplier of the water supply system  
20 shall not be precluded from including, in the charges  
21 of the supplier to the water system for the electric  
22 service, the other usual and customary charges of  
23 the supplier.



1 **SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.**

2 This Act shall not limit the authorization for water  
3 projects in South Dakota and North Dakota under law  
4 in effect on or after the date of enactment of this Act.

5 **SEC. 9. WATER RIGHTS.**

6 Nothing in this Act—

7 (1) invalidates or preempts State water law or  
8 an interstate compact governing water;

9 (2) alters the rights of any State to any appro-  
10 priated share of the waters of any body of surface  
11 or ground water, whether determined by past or fu-  
12 ture interstate compacts or by past or future legisla-  
13 tive or final judicial allocations;

14 (3) preempts or modifies any Federal or State  
15 law, or interstate compact, dealing with water qual-  
16 ity or disposal; or

17 (4) confers on any non-Federal entity the abil-  
18 ity to exercise any Federal right to the waters of any  
19 stream or to any ground water resource.

20 **SEC. 10. FEDERAL COST SHARE.**

21 The Secretary is authorized to provide funds equal  
22 to 75 percent of—

23 (1) the amount allocated in the total project  
24 construction budget for the planning and construc-  
25 tion of the water supply system under section 4; and

1           (2) such sums as are necessary to defray in-  
 2           creases in development costs reflected in appropriate  
 3           engineering cost indices after May 1, 1994.

4 **SEC. 11. NON-FEDERAL COST SHARE.**

5           The non-Federal share of the costs allocated to the  
 6 water supply system shall be 25 percent of—

7           (1) the amount allocated in the total project  
 8           construction budget for the planning and construc-  
 9           tion of the water supply system under section 4; and

10          (2) such sums as are necessary to defray in-  
 11          creases in development costs reflected in appropriate  
 12          engineering cost indices after May 1, 1994.

13 **SEC. 12. BUREAU OF RECLAMATION AUTHORIZATION.**

14          (a) AUTHORIZATION.—The Secretary is authorized to  
 15 allow the Bureau of Reclamation to provide construction  
 16 oversight to the water supply system for those areas of  
 17 the water supply system that are described in section 4(b).

18          (b) PROJECT OVERSIGHT ADMINISTRATION.—The  
 19 amount of funds used by the Bureau of Reclamation for  
 20 planning and construction of the water supply system may  
 21 not exceed an amount equal to 3 percent of the amount  
 22 provided in the total project construction budget for the  
 23 portion of the project to be constructed in Perkins County,  
 24 South Dakota.

1 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated \$15,000,000  
3 for the planning and construction of the water system  
4 under section 4, plus such sums as are necessary to defray  
5 increases in development costs reflected in appropriate en-  
6 gineering cost indices after May 1, 1994.

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